



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,613	06/23/2003	Kinya Aota	503.35255VX8	6835

20457 7590 07/28/2005

ANTONELLI, TERRY, STOUT & KRAUS, LLP
 1300 NORTH SEVENTEENTH STREET
 SUITE 1800
 ARLINGTON, VA 22209-3873

EXAMINER

CANFIELD, ROBERT

ART UNIT	PAPER NUMBER
----------	--------------

3635

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/600,613	Applicant(s) AOTA ET AL	
	Examiner Robert J. Canfield	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2005.
 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
 4a) Of the above claim(s) 2-10 and 12 is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1, 11 and 13-15 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 23 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 08/820,231.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/23/03</u> . | 6) <input type="checkbox"/> Other: _____ |

f

1. This is a first Office action on the merits for application serial number 10/600613 filed 06/23/03. Claims 1-15 are pending.

2. Applicant's election of the species of Figures 9(A) – 9(D) in the reply filed on 05/06/05 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Applicant states claims 1-15 read on the elected species. The examiner finds no description in the specification or showing in the figures of the elected species of Figures 9(A)-9(D) including any raised portions. Accordingly, claims 2-10 and 12 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. The election is considered to be made **without** traverse as noted above.

3. The examiner acknowledges receipt of the IDS filed 06/23/03. All of the information referred to therein has not been considered as it fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. The information disclosure statement also fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information,

Art Unit: 3635

of each patent listed that is not in the English language. Copies of several of the citations under the Non-Patent Literature section were not found in the electronic file and were not readily available to the examiner for consideration. Further, several of the citations appear to be in a language other than English. Similarly, copies of each of the foreign patent documents were not found in the electronic file or the files of the parent and related applications. The examiner has considered each document he was readily able to obtain a copy of. Also note any future IDS filed must include both the month and year of publication to be considered.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent D 338,968 to Moss et al.

Moss provides a hollow extrusion inherently capable of being welded. The extrusion has a bottom of first plate which projects beyond a top or second plate. A side or third plate connects the top and bottom plates and a recessed portion is provided where the top (second) and side (third) plates meet. The recess opens towards the top and side.

Art Unit: 3635

6. Claims 1 and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,050,362 to Tal et al.

First or bottom plate 14 projects at 54 beyond second or top plate 12. Recessed portion is provided at approximately 60 in figure 1. The plate is inherently capable of being welding.

7. Claims 1, 11, and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,385,182 to Harvey.

Harvey provides a hollow frame member comprised of a first of bottom plate 48 which projects beyond a second or top plate 12a. A third plate 36,40,46,54 connects the first and second plates. Recessed portion 44 is provided which has a corner with the thickness of third plate 36,40,46,54. Welds 10a are provided.

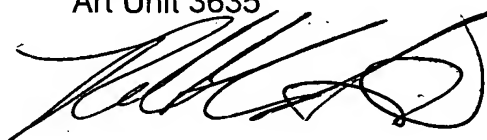
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Canfield whose telephone number is 571-272-6440. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert J Canfield
Primary Examiner
Art Unit 3635



07/22/05